

AMENDED IN SENATE AUGUST 19, 2013

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1419**

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**Introduced by Committee on Elections and Redistricting (Fong  
(Chair), Bocanegra, Bonta, Hall, Logue, and Perea)**

March 20, 2013

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An act to amend Sections 338, 2187, 5001, 5002, 5004, 5005, 5200, and 8001 of, and to add Chapter 2.5 (commencing with Section 5150) to Division 5 of, the Elections Code, and to amend Section 85205 of the Government Code, relating to elections.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1419, as amended, Committee on Elections and Redistricting. Presidential general elections: party qualifications.

Existing law establishes qualifications that a new political party must satisfy in order to participate in a primary election. Existing law provides that a new party qualifies to participate in a primary election if, on or before the 135th day before the primary election, it appears to the Secretary of State, after examining the statement of voters transmitted by county elections officials, that at least 1% of the entire vote of the state at the preceding gubernatorial election has declared an intention to affiliate with the party or if a petition to participate in the primary election is filed with the Secretary of State, signed by voters numbering at least 10% of the entire vote of the state at the preceding gubernatorial election declaring that they represent the proposed party and desire to participate in the primary election.

Under existing law, a political party must participate in the primary election in order for a candidate for partisan office to have his or her name appear on the general election ballot with that party's designation.

This bill would establish requirements for a political body that did not qualify to participate in a presidential primary election but nevertheless seeks to participate in the presidential general election following that primary election, including having candidates for President and Vice President of the United States nominated by the party appear on the presidential general election ballot. The bill would provide that a new party is qualified to participate in a presidential general election if it is able to satisfy the above-mentioned voter registration or petition signature requirements on or before the 102nd day or the 135th day, as specified, preceding the general election.

Existing law requires each county elections official to send the Secretary of State, at prescribed times, a summary of the statement of the number of voters in the county, including the number registered as affiliated with each qualified or nonqualified party.

This bill would require each county elections official to send the Secretary of State an additional summary statement of the voters in the county not less than 102 days prior to the presidential general election, with respect to voters registered before the 123rd day before the presidential general election. By imposing new duties or a higher level of service on county elections officials, this bill would impose a state-mandated local program.

The bill would also making conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. It is the intent of the Legislature in enacting this*
- 2     *act to comply with the holding of the United States District Court*
- 3     *for the Central District of California in California Justice*

1 *Committee v. Bowen (C.D. Cal. Oct. 18, 2012) No. CV 12-3956*  
2 *PA (AGRx), by requiring county elections officials to send to the*  
3 *Secretary of State an additional summary statement of the voters*  
4 *in the county in order to allow the Secretary of State to determine*  
5 *which political parties are qualified to participate in each*  
6 *presidential general election.*

7 **SECTION 1.**

8 **SEC. 2.** Section 338 of the Elections Code is amended to read:

9 338. "Party" means a political party or organization that has  
10 qualified for participation in any primary or presidential general  
11 election.

12 ~~**SEC. 2.**~~

13 **SEC. 3.** Section 2187 of the Elections Code is amended to read:

14 2187. (a) Each county elections official shall send to the  
15 Secretary of State, in a format described by the Secretary of State,  
16 a summary statement of the number of voters in the county. The  
17 statement shall show the total number of voters in the county, the  
18 number registered as affiliated with each qualified political party,  
19 the number registered in nonqualified parties, and the number who  
20 declined to state any party affiliation. The statement shall also  
21 show the number of voters, by political affiliations, in each city,  
22 supervisorial district, Assembly district, Senate district, and  
23 congressional district located in whole or in part within the county.

24 (b) The Secretary of State, on the basis of the statements sent  
25 by the county elections officials and within 30 days after receiving  
26 those statements, shall compile a statewide list showing the number  
27 of voters, by party affiliations, in the state and in each county, city,  
28 supervisorial district, Assembly district, Senate district, and  
29 congressional district in the state. A copy of this list shall be made  
30 available, upon request, to any elector in this state.

31 (c) Each county that uses data processing equipment to store  
32 the information set forth in the affidavit of registration shall send  
33 to the Secretary of State one copy of the electronic data file with  
34 the information requested by the Secretary of State. Each county  
35 that does not use data processing storage shall send to the Secretary  
36 of State one copy of the index setting forth that information.

37 (d) The summary statements and the electronic data file copy  
38 or the index shall be sent at the following times:

1 (1) On the 135th day before each presidential primary and before  
2 each direct primary, with respect to voters registered on the 154th  
3 day before the primary election.

4 (2) Not less than 50 days prior to the primary election, with  
5 respect to voters registered on the 60th day before the primary  
6 election.

7 (3) Not less than 7 days prior to the primary election, with  
8 respect to voters registered before the 14th day prior to the primary  
9 election.

10 (4) Not less than 102 days prior to each presidential general  
11 election, with respect to voters registered before the 123rd day  
12 before the presidential general election.

13 (5) Not less than 50 days prior to the general election, with  
14 respect to voters registered on the 60th day before the general  
15 election.

16 (6) Not less than 7 days prior to the general election, with respect  
17 to voters registered before the 14th day prior to the general election.

18 (7) On or before March 1 of each odd-numbered year, with  
19 respect to voters registered as of February 10.

20 (e) The Secretary of State may adopt regulations prescribing  
21 the content and format of the electronic data file or index referred  
22 to in subdivision (c) and containing the registered voter information  
23 from the affidavits of registration.

24 (f) The Secretary of State may adopt regulations prescribing  
25 additional regular reporting times, except that the total number of  
26 reporting times in any one calendar year shall not exceed 12.

27 (g) The Secretary of State shall make the information from the  
28 electronic data files or the printed indexes available, under  
29 conditions prescribed by the Secretary of State, to any candidate  
30 for federal, state, or local office, to any committee for or against  
31 any proposed ballot measure, to any committee for or against any  
32 initiative or referendum measure for which legal publication is  
33 made, and to any person for election, scholarly or political research,  
34 or governmental purposes as determined by the Secretary of State.

35 (h) *For purposes of this section, "electronic data file" means*  
36 *either a magnetic tape or a data file in an alternative electronic*  
37 *format, at the discretion of the county elections official.*

38 ~~SEC. 3.~~

39 SEC. 4. Section 5001 of the Elections Code is amended to read:

1     5001. Whenever a group of electors desires to qualify a new  
2 political party meeting the requirements of Section 5100 or 5151,  
3 that group shall form a political body by:

4     (a) Holding a caucus or convention at which temporary officers  
5 shall be elected and a party name designated. The designated name  
6 shall not be so similar to the name of an existing party so as to  
7 mislead the voters, and shall not conflict with that of any existing  
8 party or political body that has previously filed notice pursuant to  
9 subdivision (b).

10    (b) Filing formal notice with the Secretary of State that the  
11 political body has organized, elected temporary officers, and  
12 declared an intent to qualify a political party pursuant to either  
13 Section 5100 or Section 5151, but not both. The notice shall include  
14 the names and addresses of the temporary officers of the political  
15 body.

16    ~~SEC. 4.~~

17    *SEC. 5.* Section 5002 of the Elections Code is amended to read:

18     5002. Upon receipt of the notice specified in Section 5001, the  
19 Secretary of State shall notify each county elections official of the  
20 name of the political body, its intent to qualify as a political party,  
21 and whether it intends to qualify for the next primary election or  
22 for the next presidential general election.

23     In preparing the statement of voters and their political affiliations,  
24 the county elections officials shall tabulate by political affiliation  
25 the affidavits of registration of members of political parties  
26 qualified pursuant to Section 5100 or 5151, and political bodies  
27 formally declaring an intent to qualify as political parties pursuant  
28 to Section 5001. All other affidavits of registration, except those  
29 of persons declining to state a political affiliation, shall be tabulated  
30 as miscellaneous registrations.

31    ~~SEC. 5.~~

32    *SEC. 6.* Section 5004 of the Elections Code is amended to read:

33     5004. (a) If by the 135th day before any primary election, a  
34 political body filing notice of its intent to qualify for a primary  
35 election pursuant to Section 5001 has not qualified as a political  
36 party pursuant to Section 5100, the political body shall be  
37 considered to have abandoned its attempt to qualify as a political  
38 party and shall be ineligible to participate in the following primary  
39 election.

(b) If by the 102nd day before a presidential general election, a political body filing notice of its intent to qualify for a presidential general election pursuant to Section 5001 has not qualified as a political party pursuant to Section 5151, the political body shall be considered to have abandoned its attempt to qualify as a political party and shall be ineligible to participate in the following presidential general election.

~~SEC. 6.~~

*SEC. 7.* Section 5005 of the Elections Code is amended to read:

5005. (a) Until otherwise provided for by statute, a political party newly qualified pursuant to Section 5100 shall carry on its activities in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party. The temporary officers of the newly qualified political party elected pursuant to Section 5001 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

(b) Until otherwise provided for by statute, a political party newly qualified pursuant to Section 5151 shall carry on its activities in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party, except that the newly qualified party shall not be required to use a primary election to nominate candidates for the offices of President and Vice President of the United States prior to the presidential general election at which the party qualifies to participate, whose names shall appear on the presidential general election ballot. The temporary officers of the newly qualified political party elected pursuant to Section 5001 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

~~SEC. 7.~~

*SEC. 8.* Chapter 2.5 (commencing with Section 5150) is added to Division 5 of the Elections Code, to read:

1 CHAPTER 2.5. PARTIES QUALIFIED TO PARTICIPATE IN THE  
2 PRESIDENTIAL GENERAL ELECTION  
3

4 5150. This chapter applies to a political body that did not  
5 qualify to participate in a presidential primary election pursuant  
6 to Section 5100 but nevertheless seeks qualification to participate  
7 in the following presidential general election through the  
8 nomination of candidates for President and Vice President of the  
9 United States by nominating convention, or some means other  
10 than a primary election, to appear on the ballot at the presidential  
11 general election. For purposes of this chapter, participating in a  
12 presidential general election does not include using the general  
13 election ballot for the purpose of electing state party or county  
14 central committee officers.

15 5151. A party is qualified to participate in a presidential general  
16 election under any of the following conditions:

17 (a) If the party qualified to participate and participated in the  
18 presidential primary election preceding the presidential general  
19 election pursuant to Section 5100.

20 (b) If at the last preceding gubernatorial election there was polled  
21 for any one of its candidates for any office voted on throughout  
22 the state at least 2 percent of the entire vote of the state.

23 (c) If on or before the 102nd day before a presidential general  
24 election, it appears to the Secretary of State, as a result of  
25 examining and totaling the statement of voters and their political  
26 affiliations transmitted to him or her by the county elections  
27 officials, that voters equal in number to at least 1 percent of the  
28 entire vote of the state at the last preceding gubernatorial election  
29 have declared their intention to affiliate with that party.

30 (d) If on or before the 135th day before a presidential general  
31 election, there is filed with the Secretary of State a petition signed  
32 by voters, equal in number to at least 10 percent of the entire vote  
33 of the state at the last preceding gubernatorial election, declaring  
34 that they represent a proposed party, the name of which shall be  
35 stated in the petition, which proposed party those voters desire to  
36 have participate in that presidential general election. This petition  
37 shall be circulated, signed, and verified and the signatures of the  
38 voters on it shall be certified to and transmitted to the Secretary  
39 of State by the county elections officials substantially as provided  
40 for initiative petitions. Each page of the petition shall bear a caption

1 in 18-point boldface type, which caption shall be the name of the  
2 proposed party followed by the words “Petition to participate in  
3 the presidential general election.”

4 5152. (a) Upon the occurrence of the gubernatorial election,  
5 each party shall have its qualifications reviewed by the Secretary  
6 of State. A party that does not meet the standards for qualification  
7 set forth in Section 5151 shall be prohibited from participating in  
8 the presidential general election. A party shall maintain its  
9 qualification to participate in any subsequent presidential general  
10 election by complying with any of the conditions specified in  
11 Section 5151.

12 (b) A party seeking qualification under provisions of this section  
13 and subdivision (c) or (d) of Section 5151 shall file formal notice  
14 with the Secretary of State that the party intends to regain  
15 qualification.

16 (c) Unless formal notice as required in subdivision (b) is timely  
17 received by the Secretary of State, he or she may have the name  
18 of the party omitted from any list, notice, ballot, or other  
19 publication containing the names of the parties qualified or seeking  
20 qualification that the Secretary of State may cause to be printed  
21 or published.

22 (d) For purposes of subdivision (b) of Section 8001, this section  
23 shall only be applicable to a party that has successfully obtained  
24 that status for the first time after having been a political body, and  
25 shall not apply to a political party that has been disqualified.

26 5153. Whenever the registration of any party that qualified in  
27 the previous general election falls below one-fifteenth of 1 percent  
28 of the total state registration, that party shall not be qualified to  
29 participate in a presidential general election but shall be deemed  
30 to have been abandoned by the voters. The Secretary of State shall  
31 immediately remove the name of the party from any list, notice,  
32 ballot, or other publication containing the names of the parties  
33 qualified to participate in a presidential general election.

34 5154. No party shall be recognized or qualified to participate  
35 in a presidential general election that either directly or indirectly  
36 carries on, advocates, teaches, justifies, aids, or abets the overthrow  
37 by any unlawful means of, or that directly or indirectly carries on,  
38 advocates, teaches, justifies, aids, or abets a program of sabotage,  
39 force and violence, sedition or treason against, the government of  
40 the United States or of this state.

1     ~~SEC. 8.~~

2     *SEC. 9.* Section 5200 of the Elections Code is amended to read:

3     5200. (a) Not less than 123 days before a primary or  
4     presidential general election, the Secretary of State shall, with the  
5     advice and consent of the Attorney General, determine which  
6     parties are disqualified to participate in any primary election under  
7     Section 5102 or a presidential general election under Section 5154.  
8     If it is proposed to disqualify a party that was qualified to  
9     participate in the next preceding direct primary, notice of intention  
10    to disqualify shall be served by registered mail on the chairperson  
11    of the state central committee of the party, as shown by the records  
12    of the Secretary of State. In any event, notice of intention to  
13    disqualify shall be given in each county of the state by publication  
14    pursuant to Section 6061 of the Government Code. If there is no  
15    newspaper of general circulation printed and published in any  
16    county, publication shall be made in a newspaper of general  
17    circulation printed and published in an adjoining county.

18    (b) If the party desires a hearing on the notice of intention to  
19    disqualify, it shall, within 10 days after service by mail or within  
20    10 days after the last date upon which the notice was published in  
21    any county, whichever is later, file an affidavit in the Supreme  
22    Court pursuant to Section 13314 setting forth facts showing that  
23    the political party is not disqualified to participate in any primary  
24    election under Section 5102 or a presidential general election under  
25    Section 5154. If the party does not file the affidavit within the time  
26    specified, the notice of intention to disqualify shall constitute final  
27    disqualification. Before the affidavit is filed, a copy shall be  
28    personally served on the Secretary of State. When filed, the matter  
29    shall be set for return in not more than 10 days and shall have  
30    priority over any other pending cases.

31    (c) In connection with proceedings in the Supreme Court under  
32    this section, the Legislature hereby declares its intent to create a  
33    speedy and expeditious method for judicial determination of the  
34    vital questions involved, and urges the Supreme Court to accept  
35    jurisdiction in any such proceeding. The Legislature further urges  
36    that the court instruct any referee before whom the taking of  
37    evidence is ordered to report back to the court in sufficient time  
38    so that the court's final order may be made effective on or before  
39    the 80th day before the primary or presidential general election.

1     ~~SEC. 9.~~

2     *SEC. 10.* Section 8001 of the Elections Code is amended to  
3 read:

4     8001. (a) No declaration of candidacy for a partisan office or  
5 for membership on a county central committee shall be filed by a  
6 candidate unless (1) at the time of presentation of the declaration  
7 and continuously for not less than three months immediately prior  
8 to that time, or for as long as he or she has been eligible to register  
9 to vote in the state, the candidate is shown by his or her affidavit  
10 of registration to be affiliated with the political party the  
11 nomination of which he or she seeks, and (2) the candidate has not  
12 been registered as affiliated with a qualified political party other  
13 than that political party the nomination of which he or she seeks  
14 within 12 months, or, in the case of an election governed by  
15 Chapter 1 (commencing with Section 10700) of Part 6 of Division  
16 10, within three months immediately prior to the filing of the  
17 declaration.

18     (b) The elections official shall attach a certificate to the  
19 declaration of candidacy showing the date on which the candidate  
20 registered as intending to affiliate with the political party the  
21 nomination of which he or she seeks, and indicating that the  
22 candidate has not been affiliated with any other qualified political  
23 party for the period specified in subdivision (a) immediately  
24 preceding the filing of the declaration. This section does not apply  
25 to a declaration of candidacy filed by a candidate of a political  
26 party participating in its first direct primary election subsequent  
27 to its qualification as a political party pursuant to Section 5100 or  
28 by a candidate of a political party participating in its first  
29 presidential general election subsequent to its qualification as a  
30 political party pursuant to Section 5151.

31     (c) Notwithstanding subdivision (a), a county central committee,  
32 subject to the bylaws of the state central committee, may establish  
33 the length of time that a candidate for membership on that  
34 committee must be shown by his or her affidavit of registration to  
35 be affiliated with the political party of that committee, and may  
36 establish the length of time that a candidate for membership on  
37 that committee must not have been registered as affiliated with a  
38 qualified political party other than the political party of that  
39 committee.

1     ~~SEC. 10.~~

2     *SEC. 11.* Section 85205 of the Government Code is amended  
3 to read:

4     85205. “Political party committee” means the state central  
5 committee or county central committee of an organization that  
6 meets the requirements for recognition as a political party pursuant  
7 to Section 5100 or 5151 of the Elections Code.

8     ~~SEC. 11.~~

9     *SEC. 12.* If the Commission on State Mandates determines that  
10 this act contains costs mandated by the state, reimbursement to  
11 local agencies and school districts for those costs shall be made  
12 pursuant to Part 7 (commencing with Section 17500) of Division  
13 4 of Title 2 of the Government Code.